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**WOLFF LAW OFFICES, PLLC - FILING RECORD**

Attorney Docket No.: Legare-PAUS0003  
Today's Date: July 28, 2008  
Attorney: Kevin A. Wolff  
Fee Transmitted Herewith: \$00.00  
Serial No.: 10/657,189  
Filing Date: September 9, 2003  
Title: CONTROL METHODS FOR IMPROVED CATALYTIC  
CONVERTER EFFICIENCY AND DIAGNOSIS  
Inventors: Joseph E. Legare

**VIA HAND DELIVERY**

**THE USPTO STAMP HEREON ACKNOWLEDGES RECEIPT OF:**

**DOCUMENTS BEING FILED:**

- (1) Transmittal Form
- (2) Reinstatement of Appeal from the Examiner (2 Sheets)
- (3) Notice of Appeal from the Examiner (1 Sheet)
- (4) Appeal Brief (47 Sheets)



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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

52

Application Number

10/657,189

Filing Date

September 9, 2003

First Named Inventor

Joseph E. Legare

Art Unit

3748

Examiner Name

Diem T. Tran

Attorney Docket Number

Legare-PAUS0003

### ENCLOSURES (Check all that apply)

☐

Fee Transmittal Form

☐

Fee Attached

☐

Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Certified Copy of Priority Document(s)

☐

Reply to Missing Parts/  
Incomplete Application

☐

Reply to Missing Parts  
under 37 CFR 1.52 or 1.53

☐

Drawing(s)

☐

Licensing-related Papers

☐

Petition

☐

Petition to Convert to a  
Provisional Application

☐

Power of Attorney, Revocation  
Change of Correspondence Address

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Terminal Disclaimer

☐

Request for Refund

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CD, Number of CD(s) \_\_\_\_\_

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After Allowance Communication to TC

☐

Appeal Communication to Board  
of Appeals and Interferences

☒

Appeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)

☐

Proprietary Information

☐

Status Letter

☒

Other Enclosure(s) (please identify  
below):

Filing Record; Reinstatement of Appeal

Remarks

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Wolff Law Offices, PLLC

Signature

/Kevin Alan Wolff/

Printed name

Kevin Alan Wolff

Date

July 28, 2008

Reg. No.

42,233

### CERTIFICATE OF TRANSMISSION/MAILING

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/Kevin Alan Wolff/

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Kevin Alan Wolff

Date

July 28, 2008

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re: Application of Joseph E. Legare

Filing Date: September 9, 2003

Serial Number: 10/657,189

Group Art Unit: 3748

For: CONTROL METHODS FOR IMPROVED  
CATALYTIC CONVERTER EFFICIENCY  
AND DIAGNOSIS

Examiner: Diem T. Tran

**REINSTATEMENT OF APPEAL FROM THE EXAMINER  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir/Madame:

This is a Request for Reinstatement of Appeal from the Non-Final Office Action mailed July 1, 2008 rejecting claims 1-9, 11-16, 18-20, 24-33, 36, 38-40, 43-46, 50, and 51, in view of the Applicant's Appeal Brief filed on January 22, 2008. The original Notice of Appeal was filed on September 17, 2007. The present Appeal is a reinstatement of the Appeal from the Final Office Action mailed May 17, 2007 rejecting claims 1-9, 11-16, 18-20, 24-33, 36, 38-40, 42-46, 50, and 51. The original Notice of Appeal from the May 17, 2007 Final Office Action was filed on September 17, 2007 and the corresponding Appeal Brief was filed on January 22, 2008. Therefore, pursuant to MPEP § 1204.01, the previously paid fees set forth in 37 C.F.R. § 41.20 for filing a Notice of Appeal and filing an Appeal Brief associated with the original appeal are to be applied to this new appeal.

Applicant notes for the record that the Examiner has reopened prosecution on this application merely to note claim 42 had been "overlooked by the examiner" in the May 17, 2007 Final Office Action from which the original appeal was taken. (See Non-Final Office Action page 10). Applicant respectfully submits that this action was improper. The Applicant can not find any provision that enables the Examiner to reopen prosecution simply to note that one more claim overlooked, and not addressed with a rejection, is allowable. Pursuant to MPEP § 1207.04,

an Examiner may “reopen prosecution to enter a *new* ground for rejection after appellant’s brief has been filed.” Although the Non-Final Office Action recites the existence of “new ground(s) of rejection,” (See Non-Final Office Action pages 9-10), the Examiner fails to provide nothing more than the same *old* grounds for rejection including claim 42 in the list of allowed claims, and noted at the end of the Office Action that claim 42 was overlooked. This is inconsistent with MPEP § 1207.04. All of the Examiner’s “new” grounds for rejection in the Non-Final Office Action appear to be identical, verbatim, to the grounds for rejection found in the May 17, 2007 Final Office Action. The Examiner could have waived any grounds for rejecting claim 42 (although none were provided in the May 17, 2007 Final Office Action) in the Examiner’s Answer, thus indicating claim 42 contains allowable material. However the Examiner reopened prosecution of the application, forcing the Applicant to waste time, money, and resources in analyzing the new Office Action and responding repeatedly to *identical* grounds for rejection. The Examiner should be more considerate of the Applicant’s time and the need to timely and efficiently answer the Applicant’ Appeal. Therefore, Applicant fully expects to receive a Patent Term Adjustment with full credit from the time the prosecution of this application was unwarrantedly reopened until the reinstatement of this Appeal pursuant to 37 C.F.R. § 1.704(b)(4), given that the application should have remained in Appeal during these approximately three weeks.

Pursuant to MPEP § 1204.01, a new Notice of Appeal in compliance with 37 C.F.R. § 41.31 and a complete new Appeal Brief in compliance with 37 C.F.R. § 41.37 have been submitted herewith this Reinstatement of Appeal.

Respectfully submitted,



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